

**Key obligations of third States with respect to the *economic activities* sustaining –
in whole or in part – the relevant internationally wrongful conduct by Israel**

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Authors' Biography

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Considering the continued impunity with which Israel deprives the Palestinian people of their right to self-determination, their right to be protected from genocide, and the manifold other fundamental rights and protections to which they are entitled, this paper addresses some of the key obligations third States have with respect to the *economic activities* sustaining – in whole or in part – the relevant internationally wrongful conduct by Israel.

The underlying wrongful conduct

There is a belatedⁱ – but ever-wider – acknowledgment from the broader international community that Israel is engaged in violations of multiple peremptory norms of international law (*ius cogens*ⁱⁱ), including violations of (a) the basic rules of international humanitarian law;ⁱⁱⁱ (b) the prohibition on torture;^{iv} (c) the prohibition of crimes against humanity;^v (d) the prohibition on apartheid and racial discrimination;^{vi} (e) the prohibition of the crime of aggression through Israel’s maintenance of its unlawful occupation, which constitutes an unlawful use of force;^{vii} (f) the right to self-determination;^{viii} and (g) the prohibition on genocide.^{ix} While many governments, especially in the global north, deny or refuse to acknowledge multiple of the above violations, the International Court of Justice’s (ICJ) numerous findings in its Advisory Opinions and Orders;^x the International Criminal Court’s (ICC) issuance of arrest warrants;^{xi} and States’ own public statements^{xii} are further rendering such denials implausible.

The widespread nature of the offending conduct, and the scope of activities sustaining it

The nature of the above crimes is such that, where they occur – and especially where they do so in tandem – they usually entail the involvement of most, if not all, arms of government of the perpetrating State. In the case of Israel, they involve a concerted State policy to which all arms of government participate. For example, Israel’s Ministry of Interior retains control over the population registries in the Occupied Palestinian Territory and all areas under Israel’s administrative control, and exercises this control in such a manner as to further enforce a regime of apartheid and racial discrimination through its administration of, *inter alia*, family unification, entry (including the right of return), and habitual or permanent residency.^{xiii} Israel’s Ministry of Agriculture approves subsidies and grants for Israeli settlement farms;^{xiv} and its Ministry of Energy and Infrastructure is involved in halting the supply of energy to Gaza^{xv} and to UNRWA, and in setting up Israeli power stations and natural gas infrastructure for the benefit of illegal Israeli colonies in the West Bank.^{xvi} Its Ministry of communications ensures telecommunication infrastructure for such colonies;^{xvii} and its Ministry of National Security sets key policy around the torture, cruel, inhuman, and degrading treatment of Palestinians.^{xviii} The Ministry of Defence maintains continued military control over the entirety of the Occupied Palestinian Territory through air, navy and ground forces, and through its administration (see COGAT)^{xix}. Israel’s Ministry of Finance proposes a draft budget, that includes funding for all the abovementioned wrongful acts, and monitors the implementation of the approved budget.^{xx}

The Ministry of Foreign Affairs seeks to ensure Israel's criminal activity is not halted or impeded by external actors, nor punished.

Moreover, the geographic scope of such crimes and their extensive reliance on cooperation by private actors to be fully implemented and sustained create a large sphere of economic activity that – if not effectively regulated, or regulated but not subject to effective enforcement – enables, facilitates, and sustains the underlying criminal conduct. The range of 'sustaining activities' is so broad that it is impossible to provide an overview in the context of this legal opinion, but two key tenets are provided here as examples:^{xxi}

— **Assistance in, and facilitation of, processes of unlawful destruction, appropriation, and expropriation, and the transfer of Israeli nationals.**

Natural and legal persons continue to be involved in the processes of extensive unlawful appropriation and/or expropriation (pillaging^{xxii}) of property and natural resources in the Occupied Palestinian Territory; and in the maintenance of the situations created by such breaches. Such extensive appropriations, and any subsequent conveyance of the property to Israeli nationals (natural or legal persons) include appropriations conducted by the occupying power *inter alia* for the purpose of facilitating, maintaining, and rendering sustainable the transfer of Israeli nationals to occupied territory, for the purpose of entrenching its unlawful occupation over that territory, or for the diversion of natural resources to the benefit of the occupying power and its population. Relevant economic activities by natural and legal persons are predicated on their use of unlawfully appropriated property (i.e. its commercial exploitation), and render the underlying wrongful acts of appropriation and transfer additionally sustainable and include, *e.g.*, the production of goods using such property as a factor of production (*e.g.* settlement fruits and vegetables, settlement processing plants, *etc.*), and the provision of services whose execution is reliant on the use of such unlawfully obtained property (*e.g.* real estate and tourism related services, transportation infrastructure construction, and transportation services provision).^{xxiii} Such property may further be used as collateral by those to whom it was unlawfully conveyed when seeking and obtaining mortgages, *etc.* The situation is further maintained through, *inter alia*, a regime of checkpoints and walls, which requires surveillance infrastructure and equipment, as well as through the forced transfer of Palestinian protected persons and demolitions of any Palestinian structures in the Occupied Palestinian Territory, which requires its own specialised equipment (bulldozers and excavators, *etc.*).

— **The direct or indirect supply of goods and services to Israel’s military and to any civilian or military contractors acting under its effective control.**

Israel’s military offensive in Gaza and overall maintenance of unlawful control over the Occupied Palestinian Territory is further maintained through, *inter alia* extensive activities of its military. The consistent supply to Israel of military goods enables its bombardment, shelling, shooting, and forced displacement of Palestinians in Gaza, as well as in other parts of the Occupied Palestinian Territory, and the extensive demolition and destruction of Palestinian property throughout the Occupied Palestinian Territory. It also enables Israel’s continued exercise of unlawful control over the Occupied Palestinian Territory, including through its military’s full blockade (including its naval blockade) over Gaza and further acts by its military aimed at enforcing and maintaining control over the Occupied Palestinian Territory’s borders, airspace, and territorial waters; and including through acts by its ‘coordinator of government activities’ in the occupied territories (COGAT)^{xxiv} – including of those soldiers operating in the legal services approving or issuing unlawful directives and military orders.^{xxv}

Third State Obligations

Among the key obligations States have with respect to such conduct under international law are the obligation not to recognise as lawful any internationally wrongful acts, or the situations resulting from them; and the obligation to cooperate to put an end to any such breaches.^{xxvi} Both these obligations will not be further elaborated in this paper but are key aspects of an effective international enforcement system.

Secondly, States have an obligation to prevent genocide, which is an obligation of means, not of result.^{xxvii} States may seek to circumvent this obligation in two manners: (a) by claiming that certain acts would not in fact significantly influence on the perpetrator’s capacity to commit genocide; and (b) by claiming that no genocide is being committed, or at risk of being committed, and that therefore no obligation to prevent genocide is triggered with respect to certain third-party conduct. With respect to (a), the ICJ stated that a State cannot justify inaction by invoking the insufficiency of its own measures to halt genocide, as the combined effort of States may well prove sufficient to stop genocide.^{xxviii} With respect to (b), the ICJ noted that it would be absurd if States had no obligation to prevent genocide prior to a finding of genocide: “a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, *or should normally have learned of*, the existence of a *serious*

risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those *suspected* of preparing genocide, or *reasonably suspected* of harbouring specific intent (*dolus specialis*),^{xxxix} it is under a duty to make such use of these means as the circumstances permit”.^{xxx} The Court clarified further that “a State may be found to have violated its obligation to prevent *even though it had no certainty, at the time when it should have acted, but failed to do so, that genocide was about to be committed or was under way*; for it to incur responsibility on this basis it is enough that *the State was aware, or should normally have been aware, of the serious danger* that acts of genocide would be committed.”^{xxxi} In light of the multiple provisional measures issued by the Court finding, *inter alia*, that “there is urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights found by the Court to be plausible [the right of Palestinians not to be subjected to genocide]”^{xxxii}, as well as the multiple reports by UN-designated commissions and experts^{xxxiii} and by civil society, States cannot credibly and in good faith deny such a serious risk exists.^{xxxiv} The Court also remarked (*Bosnian Genocide Case*) that States cannot hide behind multilateral action being taken at, *e.g.*, a United Nations (UN) level in order to avoid their own individual obligation to use all means available to them to prevent genocide (exercising their own due diligence).^{xxxv}

Thirdly, States have an obligation not to aid and assist in the commission of internationally wrongful acts, and the obligation not to aid and assist in the maintenance of the situations resulting from serious breaches of international law.^{xxxvi} With respect to the former, States have often sought to hide behind factual scenarios where they claim that – even though their actions may have *in fact* aided and assisted in the commission of a wrongful act – they did not *intend* to do so with the *aim* of aiding and assisting in that commission.^{xxxvii} In this regard, the alleged requirement of intent appears to stem from the fact that such aid and assistance must be provided “with knowledge of the circumstances of the internationally wrongful act” under Article 16 of the International Law Commission’s Articles on State Responsibility.^{xxxviii} Intent would therefore here appear to mean oblique intent, *i.e.* “a State must not have had the purpose to facilitate” the wrongful act, “but must have been aware (had knowledge) that such facilitation would be an outcome of its own conduct (acts or omissions) barring rare or unforeseen events.”^{xxxix} Moreover, with respect to the aiding and assisting in the maintenance of a situation resulting from a serious breach, no such alleged “intent-requirement” exists.^{xl}

States further also have an obligation to respect and ensure respect for the Geneva Conventions. This is an obligation of means, a “general duty of due diligence to prevent and repress breaches of the Conventions by private persons over which a State exercises authority,

including persons in occupied territory”, with both a negative and a positive component.^{xli} As explained in the ICRC’s commentary of 2020 to the third Geneva Convention: “[t]he obligation to ensure respect for the Conventions is an autonomous primary obligation that imposes more stringent conditions than those required for the secondary rules on State responsibility for aiding or assisting. What is at stake is more than aid or assistance to violations of the rules of international law but concerns aid or assistance to violations of rules whose observance the High Contracting Parties have specifically undertaken to respect and ensure respect for. Financial, material or other support in the knowledge that such support will be used to commit violations of humanitarian law would therefore violate common Article 1, even though it may not amount to aiding or assisting in the commission of a wrongful act by the receiving States for the purposes of State responsibility.”^{xlii} As to the positive component, States “must take proactive steps to bring violations of the Conventions to an end and to bring an erring Party to a conflict back to an attitude of respect for the Conventions, in particular by using their influence on that Party”.^{xliii}

Moreover, States cannot – for all the above international obligations – invoke their membership in international organisations (as European Union Member States often do) to circumvent their own obligations and corresponding duties to act.^{xliv}

Consequences for how States regulate their own activities directly engaging the wrongdoing State

The consequences of these international obligations binding on third States are varied. Numerous studies have already addressed these,^{xlv} and many of the main findings of those studies will therefore not be repeated here. However, certain obligations bear repeating, considering the failure of many global north States to engage with them:

— Providing no direct or indirect financial or material support

States may not provide any financial (fungible) resources to the State of Israel that are at risk of being diverted to pay for, or to offset the cost of, its internationally wrongful acts (especially where those constitute *ius cogens* breaches) or of the maintenance of the situations resulting therefrom. This includes, *inter alia*, a prohibition on any sovereign (and any third State public bodies’) lending to Israel (through bonds or other financial instruments). Due to the widespread participation of all arms of government in the abovementioned criminal conduct, and considering the usual inability to ringfence financial support from such internationally

wrongful acts of the State, the risk of aiding and assisting entailed by such lending is typically unmitigable. Moreover, even where such ringfencing is possible, this would not address the serious risk of “financial offsetting” (financing that allows for a State to redirect or reallocate its existing resources, effectively freeing up those resources for other expenditures, including for the continued commission of its serious breaches), nor the actions required by the positive obligation to cooperate to bring the wrongful conduct to an end – which, if implemented in good faith, would require halting any and all support, with the exception to support allocated solely for the benefit of the victims of the State’s wrongful conduct or certain other exceptions related to essential services aimed at guaranteeing fundamental rights.

As to material support, this also includes a prohibition on providing any military equipment, not limited to weapons, which can be used by Israel in the commission of any of the aforementioned internationally wrongful acts, or in the maintenance of the situation resulting from them. Due to Israel’s armed forces overall engagement in the maintenance of Israel’s unlawful occupation, the risk that any material sent to those forces aids and assists in the underlying wrongful acts and the maintenance of the situations resulting from them cannot be eliminated.

Such prohibited material or financial support from third States may also be more indirect yet nevertheless discernible and preventable, as financial or material support can also be rendered to the perpetrating State, its wrongful activities, and the maintenance of the situations resulting therefrom, through third State provision of financial or material support to certain natural or legal persons without appropriate conditionality.

For example, a third State could be engaged in the funding of a research project in which Israeli natural or legal persons participate. The contractual terms of such funding may be inadequately drafted, in the sense that they do not envisage a scenario in which natural or legal persons operate in a State engaged in serious and persistent breaches of international law. In light of third State obligations, adequate terms would, for example, have to exclude any risk of the *subsequent* use of any generated technology and associated intellectual property rights in such a manner as to aid and assist in the serious breaches of international law or the maintenance of the situations resulting from them, including the maintenance of the unlawful occupation, blockade (including naval blockade), settlements *etc.*^{xlvi}

Consequences for how States regulate their own activities with legal persons involved in sustaining the internationally wrongful conduct

— **Regulations of their own private markets**

Regulatory activities related to market access should be carried out in such a manner as to respect the abovementioned international obligations binding on third States. In other words, where States *can* regulate activities on their market to ensure respect for international humanitarian law and so as not to aid and assist in internationally wrongful acts or the maintenance of the situations resulting therefrom, they must do so.

For example, where the approval of a bond prospectus would provide access to trading a security on the private market of one or more States, and where the relevant security would finance or run the immitigable risk of financing internationally wrongful acts of Israel or the maintenance of the situations resulting therefrom, such an approval would violate the obligations binding on third States.^{xlvii}

Another example is the import of goods or services produced using unlawfully appropriated property in the Occupied Palestinian Territory (i.e. settlement goods or services). Israel appropriates large parts of Palestinian public and private land in the Occupied Palestinian Territory for the purpose of that property's conveyance to Israeli natural and legal persons to facilitate and sustain the transfer of Israeli nationals to that territory and to facilitate Israel's maintenance of its unlawful occupation. The subsequent ability of such natural and legal persons to produce goods or services using such property and to market and sell those goods or services in third States' markets facilitates and sustains their control – and supports in the maintenance of the situations resulting from internationally wrongful acts. As the acts of appropriation are continuous acts (property continues to be unlawfully appropriated until it is reverted to its initial lawful use), participating in the use of the property for the unlawful purpose for which it was designated may also amount to aiding and assisting the underlying internationally wrongful act itself.^{xlviii} Moreover, where contracts that require the use of unlawfully appropriated property for their execution are entered into, such contracting and the execution of such contracts may also amount to laundering the proceeds of criminal conduct.^{xlix} This would especially be the case where businesses have been advised of the risks involved.

Similarly, allowing the export of goods and services, including to natural or legal persons within Israel, that are, or are at risk of, being used by the occupying power, or by natural or legal persons acting with its permission, to maintain its unlawful appropriations, to conduct unlawful demolitions, or to maintain the unlawful occupation as a whole (the wall and checkpoint regime) similarly assists in the continuation of the underlying wrongful acts and the maintenance of the situations resulting therefrom.

— **Public procurement, including of military equipment, and investments by public bodies**

Third States can, and therefore should, fully utilise their economic leverage in public procurement and through public body investments (including local authorities, sovereign wealth funds, and pension funds) to ensure that companies engaged in participation in or assistance to Israel's wrongful acts do not receive investments or public contracts until they cease such conduct.ⁱ With respect to certain industries, such as the Israeli arms industry, the risks of their facilitation of Israel's wrongful conduct are especially prominent. The Israeli military-industrial sector derives significant shares of its revenue from sales to the Israeli military, acting as a key supplier and engaging in extensive research cooperation with the military and state-owned companies.ⁱⁱ These firms are extensively involved in providing the means for the commission of internationally wrongful acts and the maintenance of the situations resulting therefrom (through *e.g.* supplying military equipment used to impose and maintain Israel's unlawful occupation and its illegal settlements). On that basis, the responsibility of States to restrict the availability of resources to companies engaged in using them in that manner, has prompted certain State-actors to exclude those companies from investment,ⁱⁱⁱ and eligibility to participate in public procurement.

Many of the abovementioned obligations have already been invoked, in whole or in part, by the International Court of Justice, which, *inter alia*, reminded “all States of their international obligations relating to the transfer of arms to parties to an armed conflict, in order to avoid the risk that such arms might be used to violate the above-mentioned Conventions [The Geneva Conventions of 1949 and the Genocide Convention]”, and that these obligations are incumbent upon State parties to those Conventions in their supply of arms to Israel.ⁱⁱⁱⁱ The Court further stated that third States have an obligation to “ abstain from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory or parts thereof which may entrench its unlawful presence in the territory. . . and to take steps to prevent trade or

investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory. . . .”^{iv}

These determinations by the Court have further been accepted by at least 124 States through United Nations General Assembly Resolution A/RES/ES-10/24, which called upon third States to comply with the obligations outlined by the ICJ in its Advisory Opinion and further:

“5. Also calls upon all States in this regard, consistent with their obligations under international law:

(a) To take steps to ensure that their nationals, and companies and entities under their jurisdiction, as well as their authorities, do not act in any way that would entail recognition or provide aid or assistance in maintaining the situation created by Israel’s illegal presence in the Occupied Palestinian Territory;

(b) To take steps towards ceasing the importation of any products originating in the Israeli settlements, as well as the provision or transfer of arms, munitions and related equipment to Israel, the occupying Power, in all cases where there are reasonable grounds to suspect that they may be used in the Occupied Palestinian Territory. . . .”^{iv}

It is now up to States to ensure the full and effective implementation of their obligations. Without their adequate diligence in this regard, the underlying offending conduct will continue, and international law will become increasingly irrelevant, signalling to all States and peoples that the international legal system is only meant to serve the powerful – further disincentivising investment in, and compliance with, an international law-based order.

ⁱ Its direct victims, the Palestinian people, have of course been aware of this matter for an excruciatingly long time.

ⁱⁱ *Ius cogens*, or peremptory norms, are norms in international law that “reflect and protect fundamental values of the international community. They are universally applicable and are hierarchically superior to other rules of international law.” Examples of *ius cogens* include: the prohibition of slavery, the prohibition of torture, the prohibition of aggression, the prohibition of genocide, the prohibition of crimes against humanity, the prohibition of racial discrimination and apartheid;

the basic rules of international humanitarian law; and the right of self-determination. See *Draft conclusions on identification and legal consequences of peremptory norms of general international law (ius cogens)*, International Law Commission, 2022, https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_14_2022.pdf.

ⁱⁱⁱ See e.g. Resolution 446 of the United Nations Security Council (UNSC) of 22 March 1979, *UN Doc. S/Res/446(1979)*, 22 March 1979, [https://undocs.org/S/Res/446\(1979\)](https://undocs.org/S/Res/446(1979)); Resolution 452 of the UNSC of 20 July 1979, *UN Doc. S/Res/452(1979)*, 20 July 1979, [https://undocs.org/S/Res/452\(1979\)](https://undocs.org/S/Res/452(1979)); Resolution 465 of the UNSC of 1 March 1980, *UN Doc. S/Res/465(1980)*, 1 March 1980, [https://undocs.org/S/Res/465\(1980\)](https://undocs.org/S/Res/465(1980)); Resolution 2334 of the UNSC of 23 December 2016, *S/Res/2334(2016)*, 23 December 2016, [https://undocs.org/S/Res/2334\(2016\)](https://undocs.org/S/Res/2334(2016)).

See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion (The Wall Advisory Opinion)*, I.C.J. Reports 2004, p. 136, pp. 183-184, 189-194, paras. 120, 132, 135, 137; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion (Palestine Advisory Opinion)*, 19 July 2024, pp. 35-47, 54, 61, paras. 111-156; 213.

^{iv} See e.g., *Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023*, United Nations Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/56/CRP.4*, 10 June 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-4.pdf>, paras. 441, 444, 445, 478; *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, United Nations Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/56/26*, 14 June 2024, <https://undocs.org/A/HRC/56/26>, para. 84; *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, United Nations General Assembly, *UN Doc. A/79/232*, 11 September 2024, <https://undocs.org/A/79/232>, paras. 89, 102, 105, 109; “*More than a human can bear*”: *Israel’s systematic use of sexual, reproductive and other forms of gender-based violence since 7 October 2023*, United Nations Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/58/CRP.6*, 13 March 2025, paras. 193, 195, 212.

^v See e.g., *Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023*, United Nations Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/56/CRP.4*, 10 June 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-4.pdf>, paras. 457-474; *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, United Nations Human Rights Council, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/56/26*, 14 June 2024, <https://undocs.org/A/HRC/56/26>, para. 84; *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, United Nations General Assembly, *UN Doc. A/79/232*, 11 September 2024, <https://undocs.org/A/79/232>, paras. 102, 109; “*More than a human can bear*”: *Israel’s systematic use of sexual, reproductive and other forms of gender-based violence since 7 October 2023*, UN HRC, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/58/CRP.6*, 13 March 2025, paras. 164, 166, 174, 193-195, 200, 214; *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, UN HRC, *UN Doc. A/HRC/59/26*, 6 May 2025, <https://undocs.org/A/HRC/59/26>, paras. 79, 92. See also on the blockade: *Does the closure of Gaza constitute the crime against humanity of persecution? Independent Legal Opinion*, Lawyers for Palestinian Human Rights (LPHR), 5 December 2022, <https://lphr.org.uk/wp-content/uploads/2024/01/Public-version-Legal-Opinion-on-the-Gaza-closure.pdf>.

^{vi} *Palestine Advisory Opinion*, 2019, pp. 64-65, paras. 223-229.

^{vii} *Palestine Advisory Opinion*, 2019, p. 53, para. 179; pp. 71-72, paras. 254, 259-264.

^{viii} *Palestine Advisory Opinion*, 2019, pp. 65-68, paras. 230-243.

^{ix} *Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide*, UN HRC, Independent International Commission of Inquiry on the Occupied Palestinian

Territory, including East Jerusalem, and Israel, *UN Doc. A /HRC/60/CRP.3*, 16 September 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf>; Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UNGA, *UN Doc. A/80/337*, 14 August 2025, <https://undocs.org/A/80/337>; *Anatomy of a Genocide, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, Francesca Albanese, UN HRC, *UN Doc. A/HRC/55/73*, <https://undocs.org/A/HRC/55/73>; *Genocide as Colonial Erasure, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, Francesca Albanese, UN GA, *UN Doc. A/79/384*, <https://undocs.org/A/79/384>; *Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories*, UNGA, *UN Doc. A/79/363*, <https://undocs.org/A/79/363>.

^x *Palestine Advisory Opinion; The Wall Advisory Opinion*. With respect to the risk of genocide, is of relevance: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, *Provisional Measures, Order of 26 January 2024*, *I.C.J. Reports 2024*, p. 3; *South Africa v. Israel, Request for the Modification of the Order Indicating Provisional Measures of 26 January 2024, Order of 28 March 2024*, *I.C.J. Reports 2024*, p. 513; *South Africa v. Israel, Request for the Modification of the Order of 28 March 2024, Order of 24 May 2024*, *I.C.J. Reports 2024*, p. 649.

^{xi} *Press Release: Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant*, International Criminal Court, 21 November 2024, <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>.

^{xii} See *e.g.* States' multiple statements on the illegality of Israel's settlement in the Occupied Palestinian Territory and attempts at forced displacement of the Palestinian population from the Occupied Palestinian Territory.

^{xiii} See *e.g. Engineering Community: Family Unification, Entry Restrictions and other Israeli Policies of Fragmenting Palestinians*, Al-Haq, 13 February 2019, <https://www.alhaq.org/advocacy/6106.html>; *Briefing: COGAT's amended "Procedure for entry and residence of foreigners in the Judea and Samaria area" (to go into effect October 20, 2022)*, Right to Enter Campaign, October 2022, <https://drive.google.com/file/d/1W7IHHwqsiTzbKKwtKjT8P-j14EwwlCLs/view>.

^{xiv} See, *e.g. Smotrich announces grazing subsidies to be increased for West Bank farmers*, Times of Israel (29 December 2024), https://www.timesofisrael.com/liveblog_entry/smotrich-announces-grazing-subsidies-to-be-increased-for-west-bank-farmers/.

^{xv} See, *e.g.* Israel's former Minister of Energy and Infrastructure and current Minister of Defence: @Israel_katz, tweet (6:34 pm, 7 October 2023), https://x.com/Israel_katz/status/1710695021769265450; @Israel_katz, tweet (12:48 pm, 9 October 2023), https://x.com/Israel_katz/status/1711332854070640935; Israel's Minister of Energy and Infrastructure, @elicoh1, tweet (4:23 pm, 9 March 2025), <https://x.com/elicoh1/status/189875646322260177>; @elicoh1, tweet (4:07 pm, 10 April 2025), <https://x.com/elicoh1/status/1910333877924606342>; @elicoh1, tweet (2:37 pm, 15 July 2025), <https://x.com/elicoh1/status/1945100511331377316>.

^{xvi} Israel's Minister of Energy and Infrastructure, @elicoh1, tweet (5:01pm, 11 June 2025), <https://x.com/elicoh1/status/1932815457020453062>; @elicoh1, tweet (8:47 pm, 3 July 2025), <https://x.com/elicoh1/status/1940844977569059207>.

^{xvii} See, *e.g.* Israel's Minister of Communications, @shlomo_karhi, tweet (8:40 pm, 24 August 2025), https://x.com/shlomo_karhi/status/1959687176725082483.

^{xviii} See *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, UNGA, *UN Doc. 1/79/232*, 11 September 2024, <https://undocs.org/A/79/232>,

paras. 56, 103; and “*More than a human can bear*”: *Israel’s systematic use of sexual, reproductive and other forms of gender-based violence since 7 October 2023*, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/58/CRP.6*, 13 March 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/a-hrc-58-crp-6.pdf>, paras. 90, 127, 128, 153, 156, 222.

^{xix} COGAT stands for the “Coordination of Government Activities in the Territories”. It is the acronym of the unit in Israel’s military that implements the Israeli government’s “civilian policy” within the West Bank “and in regard to the Gaza Strip, in coordination and cooperation with officials from the defense apparatus and government ministries in various fields. . . The unit reports to Israel’s Minister of Defense and to the Major General of COGAT”, who is a member of the Israeli military’s General Staff. See further: Israel, *Coordination of Government Activities in the Territories*, <https://www.gov.il/en/departments/coordination-of-government-activities-in-the-territories/govil-landing-page>.

^{xx} *About the Ministry of Finance*, Israel, accessed on 14 October 2025, https://www.gov.il/en/pages/about_mof.

^{xxi} For more, see e.g. *From economy of occupation to economy of genocide, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, Francesca Albanese, UNGA, *UN Doc. A/HRC/59/23*, <https://docs.un.org/en/A/HRC/59/23>; *Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem*, United Nations High Commissioner for Human Rights, *UN Doc. A/HRC/60/19*, 26 September 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-19-aev.pdf>.

^{xxii} See, for example, for legal reference on natural resources pillage: *Corporate War Crimes: Prosecuting the Pillage of Natural Resources*, James G. Stewart, Open Society Justice Foundation, 2011, <https://www.justiceinitiative.org/uploads/9a7c2390-4d10-4f0b-9f0c-f62d578c7d9b/pillage-manual-2nd-edition-2011.pdf>.

^{xxiii} See *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion Proceedings, Written Statement of Namibia of 25 October 2023*, <https://www.icj-cij.org/sites/default/files/case-related/186/186-20231025-wri-12-00-en.pdf>, paras. 40-47.

^{xxiv} See endnote xix *supra*.

^{xxv} For example, in relation to the closure of Gaza, the entry of humanitarian aid into Gaza, the administration of borders and presence in the West Bank, building permits in the West Bank (Area C) etc.

^{xxvi} *Responsibility of States for Internationally Wrongful Acts*, International Law Commission, 2001, Articles 16 and 41.

^{xxvii} *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) (Bosnian Genocide Case), Judgment, I.C.J. Reports 2007*, p. 43, p. 221, para. 430: “responsibility is [...] incurred if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide.”

^{xxviii} *Ibid.*

^{xxix} *Dolus specialis* refers to a specific intent accompanying an act, to not just commit the act, but to achieve with it a specific (defined) purpose. In the context of genocide, *dolus specialis* or special intent it refers to the intent “to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. See further Al-Haq, *The Genocide Series. Al Haq Legal Brief I: Special Intent (Dolus Specialis) Required to Classify Acts as Genocide* (12 May 2025), https://www.alhaq.org/cached_uploads/download/2025/05/12/legal-brief-1-genocide-series-1747067173.pdf.

A special intent requirement (*dolus specialis*) is however not exclusive to genocide, see e.g. <https://international-review.icrc.org/articles/for-private-or-personal-use-special-intent-requirement-pillage-rome-statute-icc-915>.

^{xxx} *Ibid.*, para. 431.

^{xxxi} *Ibid.*, para. 432.

^{xxxii} *Alleged Breaches of Certain International Obligations in respect of the Occupied Palestinian Territory (Nicaragua v. Germany)*, Provisional Measures, Order of 30 April 2024, *I.C.J. Reports 2024*, p. 560, paras. 23-24; *South Africa v. Israel*, Provisional Measures, Order of 26 January 2024, para. 74 (see also para. 54); *South Africa v. Israel*, Provisional Measures, Order of 28 March 2024, para. 40; *South Africa v. Israel*, Order of 24 May 2024, para. 47.

^{xxxiii} *Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide*, UN HRC, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *UN Doc. A/HRC/60/CRP.3*, 16 September 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf>; Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UNGA, *UN Doc. A/80/337*, 14 August 2025, <https://undocs.org/A/80/337>; *Anatomy of a Genocide, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese*, UN HRC, *UN Doc. A/HRC/55/73*, <https://undocs.org/A/HRC/55/73>; *Genocide as Colonial Erasure, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese*, UN GA, *UN Doc. A/79/384*, <https://undocs.org/A/79/384>; *Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories*, UNGA, *UN Doc. A/79/363*, <https://undocs.org/A/79/363>.

^{xxxiv} However, for continued attempts at circumvention in this regard, see e.g.: *Letter from the Secretary of State for Foreign, Commonwealth and Development Affairs, David Lammy, on the subject of arms exports to Israel and the global F-35 programme*, United Kingdom, Secretary of State for Foreign, Commonwealth and Development Affairs, 1 September 2025, <https://committees.parliament.uk/publications/49215/documents/262248/default/>: “The Government has carefully considered the risk of genocide, including when permitting exports to the F-35 global programme. . . As per the Genocide Convention, the crime of genocide occurs only where there is specific “intent to destroy, in whole or in part, a national, ethnic, racial or religious group.” The Government has not concluded that Israel is acting with that intent. . . To date, the ICJ has neither found that Israel has breached its obligations under the Genocide Convention, nor ruled on the plausibility of Israel committing genocide. Accordingly, we do not consider that the ICJ’s Provisional Measures Orders should be regarded as creating an awareness of a serious risk of genocide.”

^{xxxv} *Bosnian Genocide Case*, para. 427.

^{xxxvi} *Responsibility of States for Internationally Wrongful Acts*, International Law Commission, 2001, Articles 16 and 41.

^{xxxvii} See *Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries*, ILC, 2001, commentary to Article 16, p. 66, para. 5: “A State is not responsible for aid or assistance under article 16 unless the relevant State organ intended, by the aid or assistance given, to facilitate the occurrence of the wrongful conduct”.

^{xxxviii} See *ibid.*, commentary to Article 16.

^{xxxix} See *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion Proceedings, Written Statement of Namibia of 25 October 2023*, <https://www.icj-cij.org/sites/default/files/case-related/186/186-20231025-wri-12-00-en.pdf>, paragraphs 52-53.

^{xi} See *Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries*, ILC, 2001, commentary to Article 41, p. 115, para. 11.

^{xii} *Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949. Commentary of 2020*, International Committee of the Red Cross (ICRC), 2020, <https://ihl-databases.icrc.org/en/ihl-treaties/gcii-1949/article-1/commentary/2020>, para. 183.

^{xiii} *Ibid.* para. 193.

^{xiiii} *Ibid.* para. 197.

^{xlv} See Vienna Convention on the Law of Treaties, 1969, Article 27; *Draft Articles on the Responsibility of International Organizations*, ILC, Article 61 and commentaries thereto, pp. 98-100, https://legal.un.org/ilc/texts/instruments/english/commentaries/9_11_2011.pdf; see also UNGA, International Law Commission: Peremptory norms of general international law (*jus cogens*), comments and observations received by governments, A/CN.4/748, 9 March 2022, <https://documents.un.org/doc/undoc/gen/n22/230/55/pdf/n2223055.pdf>, observations of the Kingdom of Belgium on 'Draft conclusion 16': "In other words, if an act of an international organization conflicts with *jus cogens*, it cannot create obligations within the organization's own legal order, if such an order exists for the organization and its members apart from international law".

^{xlv} *Third State Economic Responsibility in light of the ICJ's Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Law For Palestine, April 2025, https://law4palestine.org/wp-content/uploads/2025/04/L4P_Third-State-Economic-Responsibility-Booklet-PDF.pdf; *Obligations of Third States and Corporations to Prevent and Punish Genocide in Gaza*, Dr. Irene Pietropaoli, Al-Haq Europe and SOMO (Centre for Research on Multinational Corporations), 5 June 2024, <https://www.somo.nl/wp-content/uploads/2024/06/Obligations-of-Third-States-and-Corporations-to-Prevent-and-Punish-Genocide-in-Gaza-3.pdf>.

^{xlvi} See also *European Defence Fund millions benefiting Israeli state-owned drone manufacturer*, Konstantina Maltepioti *et al.*, EUobserver, 11 June 2025, <https://euobserver.com/eu-and-the-world/ar201316e5>; *Israeli arms firm could lose EU funds over Gaza drone-kill video*, Andrew Rettman, EUobserver, 25 July 2025, <https://euobserver.com/eu-and-the-world/ar3d4c0186>; *EU misled public on Israel drone-kill video*, Andrew Rettman, EUobserver, 4 September 2025, <https://euobserver.com/eu-and-the-world/ar3905e1da>; *European money for the war in Gaza: how EU research funding supports the Israeli arms industry*, Statewatch, 22 March 2024, <https://www.statewatch.org/analyses/2024/european-money-for-the-war-in-gaza-how-eu-research-funding-supports-the-israeli-arms-industry/>.

^{xlvii} See, e.g. *Legal Opinion on Luxembourg's Hosting of Israeli Bonds*, Shahd Hammouri *et al.*, Law For Palestine, 30 September 2025, <https://law4palestine.org/legal-opinion-on-luxembourgs-hosting-of-israeli-bonds/>.

^{xlviii} See also *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion Proceedings, Written Statement of Namibia of 25 October 2023*, pp.12-22, <https://www.icj-cij.org/sites/default/files/case-related/186/186-20231025-wri-12-00-en.pdf>.

^{xlix} See e.g. *BREAKING-Booking.com Sued for Laundering Profits from Israeli War Crimes in Palestine*, European Legal Support Centre (ELSC), 23 May 2024, <https://elsc.support/nl/booking-com-sued-for-laundering-profits-from-israeli-war-crimes-in-palestine/>; *Airbnb faces multi-jurisdictional legal actions over alleged profiting from rentals in illegal Israeli settlements*, Business and Human Rights Resource Centre, 10 June 2025, <https://www.business-humanrights.org/en/latest-news/airbnb-faces-multi-jurisdictional-legal-actions-over-alleged-profiting-from-rentals-in-illegal-israeli-settlements/>.

^l See also *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, United Nations Office of the High Commissioner for Human Rights, 2011,

https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf. While these principles state that: “States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction”, States are required to do so under *other areas of law than human rights law*, as highlighted in this legal opinion. The UN Guiding Principles can, *mutatis mutandis*, provide useful and important guidelines on how States should regulate to ensure those obligations are met.

ⁱⁱ See *e.g.* *New Update: The Companies Supplying Weapons to Israel’s Attack on Gaza*, Who Profits Research Centre, 17 December 2023, https://www.whoprofits.org/writable/uploads/publications/1704198844_be4b3465011bcea6c0a0.pdf; Sharon Wrobel, “Elbit’s profit surges 30% as its order backlog hits record amid multifront war”, *The Times of Israel* (19 November 2024), <https://www.timesofisrael.com/elbits-profit-surges-30-as-its-order-backlog-hits-record-amid-multifront-war/>.

ⁱⁱⁱ See *e.g.* in 2009, when Norway’s sovereign wealth fund (‘Government Pension Fund Global’) – which is managed in accordance with clear sustainability criteria (*Responsible investment*, Norges Bank Investment Management, <https://www.nbim.no/en/responsible-investment/>) and is one of the world’s largest funds owning almost 1.5 percent of all shares in the world’s listed companies – excluded Elbit Systems from its investment portfolio consequent to an assessment by its Council on Ethics (*Supplier of surveillance equipment for the separation barrier in the West Bank excluded from the Government Pension Fund – Global*, Norway, Ministry of Finance, 3 September 2009, <https://www.regjeringen.no/en/historical-archive/Stoltenbergs-2nd-Government/Ministry-of-Finance/Nyheter-og-pressemeldinger/pressemeldinger/2009/supplier-of-surveillance-equipment-for-t/id575444/>). In accordance with criteria for responsible investment issued by Norway’s Ministry of Finance, it may exclude companies if there is “an unacceptable risk that the company contributes to or is responsible for” *inter alia* “serious or systematic human rights violations; serious violations of individual’s rights in situations of war or conflict; the sale of weapons to states engaged in armed conflict that use the weapons in ways that constitute serious and systematic violations of the international rules on the conduct of hostilities” and other fundamental ethical norms. Elbit was found by the Council of Ethics to “help sustain violations of international law” through its supply of surveillance equipment used in the maintenance of Israel’s apartheid barrier in the West Bank. It’s involvement in the barrier’s construction was considered “integral”.ⁱⁱⁱ The Council on Ethics consequently “consider[ed] the Fund’s investment in Elbit **to constitute an unacceptable risk of complicity in serious violations of fundamental ethical norms**” (emphasis added). The Minister of Finance explained: “[w]e do not wish to fund companies that so directly contribute to violations of international humanitarian law.” (*To the Ministry of Finance: Recommendation*, Norway, Council on Ethics, The Government Pension Fund Global, 15 May 2009, https://www.regjeringen.no/contentassets/f507de70bf0b4235bf760746452cf192/elbit_engelsk.pdf).

ⁱⁱⁱⁱ *Nicaragua v. Germany*, p. 568, paras. 23-24.

^{lv} *Palestine Advisory Opinion*, paras. 278-279, 285(7).

^{lv} Resolution ES-10/24 of the UNGA of 19 September 2024, *UN Doc. A/RES/ES-10/24* (2024), 19 September 2024, <https://undocs.org/A/RES/ES-10/24>.